IN THE HIGH COURT OF UTTARANCHAL AT NAINTIAL

Writ Petition No. 391 (M/S) of 2005

Rajesh Sharma Green Land finance & Leasing
Private Lt. Azadpur, Commercial Complex,
New Delhi .....petitioner/applicant

Versus

1. State of Uttaranchal through District Judge, Almora.
2. District Judge Almora, District- Almora.
3. District Magistrate Almora, District-
   Almora. .....Respondents

Mr. Vinod Sharma, Advocate, counsel for the petitioner.
Standing Counsel for the respondents

Dated 3.7.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 31.12.2003, and 19.3.2004 passed by the District Judge, Almora in case No. 10/2001-02 State Vs. Mohan Singh and others.

Briefly stated, on 28.09.2002 one Tata Sumo No. D.L.-8-C.B.8195 has been seized by the Police and case has been

registered in police-station Bhantrojkhan District Almora under 60 Excise Act against two person namely Mohan Singh and Nigam Prasad Sharma. The petitioner thereafter approached to the District Magistrate for releasing of the Tata Sumo on the ground that as per the agreement the vehicle would remain the property of the owner i.e. petitioner and Sri Ravi Dutt Sharma would have the option of purchasing the said vehicle after paying the entire hirer amount,

The petitioner has challenged the order in appeal No. 3 of 2004, but the appeal was dismissed.

The petitioner has referred the judgment of Apex Court **in Surenderbhai Ambala Desai V. State of Gujarat (2002) 10 S.C.C. 283,** which is as under:-

"In our view, whatever be the situation, it is no use to keep such seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicle, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

In view of the aforesaid, the respondents No.3/District Magistrate, Almora is directed to release the Tata Sumo on furnishing two sureties to the satisfaction.

The writ petition therefore, is allowed. No order as to costs.

3.7.2006 **(Rajesh Tandon, J.)**